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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,563	06/01/2007	Takashi Hotta	77661/73	4705
23838 7590 06/02/2010 KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005				
EXAMINER LUKS, JEREMY AUSTIN				
ART UNIT 2832		PAPER NUMBER		
MAIL DATE 06/02/2010		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/594,563

**Applicant(s)**

HOTTA ET AL.

**Examiner**

JEREMY LUKS

**Art Unit**

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SO-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun (2004/0144367) in view of Kanda (4,924,966).

With respect to Claim 1, Braun teaches a delivery pipe (Figure 10) comprising: an outer pipe (134) having a longitudinal direction; an inner pipe (110) extending in the longitudinal direction and fluidly isolated from the outer pipe (134); wherein the outer pipe (134) is connected to a plurality of fuel injectors (136a-d) of a multi-cylinder internal combustion engine (Page 2, [0027]), the outer pipe (134) being provided with a connector for causing fuel to flow to a fuel passage defined between the outer pipe (134) and the inner pipe (110) (Page 2, Lines 9-10 of [0027]), the inner pipe (110) being disposed in the outer pipe (134) and having an open end (117) through which an interior of the inner pipe (110) communicates with atmosphere (Page 2, [0024]-[0025]). Braun fails to teach a noise emission decreasing device including a mesh located within the inner pipe, and the noise emission decreasing device made separately from the inner pipe and fixed to the open end of the inner pipe so as to act being adapted to act so as to decrease a noise emitted from the inner pipe, wherein the noise emission decreasing device is provided at all portions of a cross section of an interior of the inner pipe.

Kanda teaches wherein it is known to provide an inner resonating pipe (Figures 1-2, #12) with a noise emission decreasing device (Figures 1-4, #14) including a mesh (Col. 3, Lines 46-48) located within the inner pipe (12), when used in combination, and the noise emission decreasing device (14) made separately from the inner pipe (12) and fixed to the open end of the inner pipe (12) so as to act to decrease a noise emitted from the inner pipe (12) (Col. 4, Lines 28-34), wherein the noise emission decreasing device (14) is provided at all portions of a cross section of an interior of the inner pipe (12). When device #14 as seen in Figure 3 is constructed of a metal mesh, it will not have hole #13 (Col. 3, Lines 46-48), and will be provided at all portions of a cross section of an interior of the inner pipe #12, when used in combination. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of Braun, with the apparatus of Kanda to suppress resonance within the inner pipe/damper #110 of Braun.

With respect to Claims 11 and 12, Kanda teaches wherein the noise emission decreasing device (Figures 1-4, #14) is disposed at the open end of the inner pipe (12); and wherein the noise emission decreasing device (14) is disposed at a longitudinally intermediate portion of the inner pipe (12). Braun and Kanda fail to explicitly teach wherein the noise emission decreasing device is disposed at *only* the open end of the inner pipe; and wherein the noise emission decreasing device is disposed at *only* a longitudinally intermediate portion of the inner pipe. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide wherein the noise emission decreasing device is disposed at *only* the open end of the inner pipe;

and wherein the noise emission decreasing device is disposed at *only* a longitudinally intermediate portion of the inner pipe, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same function as before involves only routine skill in the art. In re Karlson, 136 USPQ 184. Further, proving additional or fewer of elements #14 within the pipe will function to tune the the device, making it an obvious matter of design choice.

With respect to Claims 13, Kanda teaches wherein the noise emission decreasing device (Figures 1-4, #14) is attached within the pipe (12, will be inner pipe when used in combination with Braun) and is located inside the pipe (12, will be inner pipe when used in combination with Braun) (Col. 3, Lines 33-36). Further, with respect to pressing the material inside the inner pipe, the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, this limitation has been given little patentable weight.

With respect to Claim 14, Kanda teaches wherein the noise emission decreasing device (Figures 1-4, #14) is attached within the pipe (12, will be inner pipe when used in combination with Braun) and is located inside the pipe (12, will be inner pipe when used in combination with Braun) (Col. 3, Lines 33-36). The Examiner considers the disclosure of "attaching" to encompass bonding, which is a well known method of attachment. Further, the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, this limitation has been given little patentable weight.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1 and 11-14 have been considered but are moot in view of the new ground(s) of rejection. The Examiner considers the obvious combination of Braun and Kanda to teach all of the limitations as claimed by Applicant.

***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMY LUKS whose telephone number is (571)272-2707. The examiner can normally be reached on Monday-Friday, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeremy Luks/  
Examiner, Art Unit 2832

/Jeffrey Donels/  
Primary Examiner, Art Unit 2832